

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

COURTNEY TAMONE LAMAR ABNEY,

Plaintiff,

v.

JACKSON COUNTY SHERIFF OFFICE, et al.,

Defendants.

MOSMAN, District Judge.

Plaintiff in this prisoner civil rights case moves to voluntarily dismiss his case “of procedural defect.” Motion to Dismiss (#7), p. 1. He also asks the Court to reimburse him for the filing fee associated with this case because “of initial complaint being dismissed on grounds of failure to state a claim.” *Id.* Where the collection of the filing fee is a statutory requirement, the Court has no discretion not to adhere to the statute. *See* 28 U.S.C. § 1915. However, given the voluntary nature of Plaintiff’s dismissal of this case, the court will dismiss the action without prejudice and the dismissal will not constitute a “strike” for purposes of 28 U.S.C. § 1915(g).<sup>1</sup>

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<sup>1</sup> Plaintiff is advised that under the Prison Litigation Reform Act, a prisoner is prohibited from proceeding in a civil action without full payment of the filing fee if the prisoner has, on three or more occasions, while incarcerated

**CONCLUSION**

Plaintiff's Motion to Dismiss (#7) is granted. His request within that Motion to reimburse him for the payment of the civil filing fee is denied.

IT IS SO ORDERED.

12/21/2022

DATE

*Michael W. Mosman*

Michael W. Mosman  
United States District Judge

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or detained in any facility, brought an action in a court of the United States that was dismissed as frivolous or for failure to state a claim unless the prisoner is under imminent danger of serious physical harm. 28 U.S.C. § 1915(g).